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## Technical Bulletins: Maternity Leave in Tennessee

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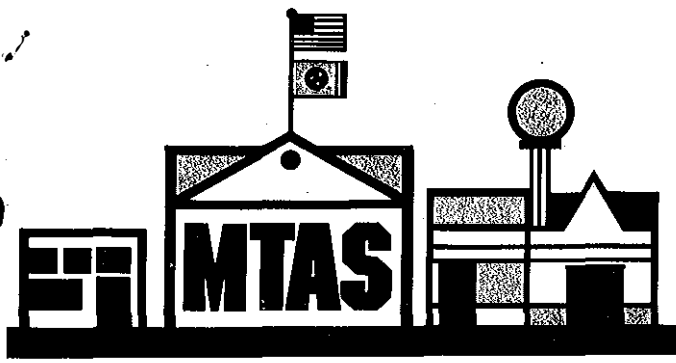
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# TECHNICAL BULLETIN



MUNICIPAL TECHNICAL ADVISORY SERVICE  
THE UNIVERSITY OF TENNESSEE  
IN COOPERATION WITH THE TENNESSEE MUNICIPAL LEAGUE

Bulletin No. 2

July 2, 1987

## MATERNITY LEAVE IN TENNESSEE

by Richard L. Stokes

On January 1, 1988, Tennessee will join a growing list of states that have enacted legislation requiring employers to provide maternity leave to female employees.

The Tennessee law (House Bill No. 1002 as submitted by Williams, Purcell, Bushing, Gaia, Kernell, and Deberry and Senate Bill No. 878 as submitted by Haynes) comes in the wake of a recent Supreme Court decision in which the courts ruled that a California law was not in violation of the 1978 Pregnancy Disability Act. The California law mandated that California employers provide up to four (4) months of unpaid disability leave to pregnant employees and that they reinstate these employees in the same jobs if possible.

Under the Tennessee Act, a female employee who has been employed for at least twelve (12) consecutive months as a full-time employee by the same employer may be on leave from work for a period not to exceed four (4) months for the purpose of "bonding with a newly born or newly adopted child." The law does not require employers to provide paid leave to pregnant employees but allows a general right to reinstatement to their former position or a similar position in the organization.

According to the Maternity Leave Act of 1987, Chapter 21 of the Acts of 1987, a female employee who gives at least three (3) months' advance notice to her employer of her anticipated date of departure for maternity purposes, her length of maternity leave, and her intention to return to full-time employment, shall be restored to her previous or a similar position with the same status, pay, length of service credit, and seniority as of the date of her leave. Failure to give three (3) months' advance notice because of a medical emergency which necessitates that maternity leave begin earlier than originally anticipated does not forfeit the employee's rights and benefits under that Act.

The Act recognizes that some positions require special skills and training; therefore, if the employee's job is so unique that the employer cannot, after reasonable effort, fill the position temporarily, then the employer shall not be liable for failure to reinstate the employee. Additionally, since the purpose of the Act is to foster and encourage bonding between a female employee and her newly born or adopted child, the employer is not obligated to reinstate the employee if it is found that the employee used the time to actively pursue other employment opportunities or if the employer finds that the employee has worked part-time or full-time for another employer.

The Act does not affect any bargaining agreement or company policy which provides for greater or additional benefits than those under the Act; nor does it require any employer to provide maternity leave to male employees; nor does it apply to employers who employ fewer than one hundred (100) full-time employees on a permanent basis.

Enforcement of this Act shall be sought by filing an original complaint with the Circuit or Chancery Court in the county having jurisdiction.

If you have questions regarding any matter relating to the Tennessee Maternity Leave Act or would like a copy of the Bill, please contact your MTAS Management Consultant or Richard Stokes in Nashville at (615) 256-8141.

The Municipal Technical Advisory Service (MTAS), one of four operating units of The University of Tennessee's Institute for Public Service, works closely with the Tennessee Municipal League. MTAS was created in 1949 by the General Assembly at the request of Tennessee cities.

The mission of MTAS is to assist Tennessee city officials in responding effectively to changing municipal needs. MTAS consultants work daily with city officials in an effort to provide practical assistance where and when it is most needed.

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